

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-321
Administrative Law Judge Division
[Date]

RESOLUTION

RESOLUTION ALJ-321. Resolves K.15-02-017, the appeal of West Coast Gas Company (U910G) from Citation ALJ 274 15-01-005 issued on January 30, 2015 by the Safety and Enforcement Division.

SUMMARY

This resolution adopts a settlement between West Coast Gas Company (U910G) and the Commission's Safety and Enforcement Division which resolves the appeal of West Coast Gas Company (U-910-G) from Citation ALJ 274 15-01-005 issued by the Commission's Safety and Enforcement Division on January 30, 2015. Citation ALJ 274 15-01-005 imposed a penalty of \$100,000 for three violations: 49 CFR 192.739 (failure to inspect and test pressure limiting and regulating stations in 2010, 2011, 2012 and 2013); 49 CFR 199.105 and 49 CFR 199.225 (failure to conduct pre-employment and periodic drug and alcohol testing of one part-time employee); and 49 CFR 199.113 and 49 CFR 199.241 (failure to require supervisors to take training regarding drug and alcohol testing and record keeping). The settlement requires West Coast Gas Company shareholders to pay a \$15,000 penalty.

BACKGROUND

The Commission is empowered to enforce the provisions of Title 49, Code of Federal Regulations against gas utilities it regulates pursuant to the Commission's General Order (GO) 112-E, and Resolution (Res.) ALJ-274 authorizes Commission staff to issue citations for violations of the relevant sections of the Code of Federal Regulations, California Code of Regulations and the Commission's General Orders.

On April 29-30 and May 1-2, 2013, the Commission conducted a GO 112-E audit of West Coast Gas, a small distribution-only, low-pressure natural gas company, and found a total of 28 violations and one "area of concern." West Coast Gas cooperated with this

investigation, and took corrective actions which resolved 25 of the 28 violations and the area of concern. On January 30, 2015, the Commission issued this citation in the amount of \$100,000 for the unresolved violations. On February 6, 2015, West Coast Gas filed an appeal to the citation. On June 25, 2015, West Coast Gas and the Commission's Safety and Enforcement submitted a joint motion for adoption of a settlement agreement.

DISCUSSION

On February 6, 2015, West Coast Gas filed an appeal to the citation, citing the actions it has taken in addressing the violations, and challenging the \$100,000 penalty as excessive in light of the small size of this utility.

In response to the Commission's audit and citation, West Coast Gas took the following corrective actions:

1. West Coast Gas conducted its most recent annual inspection and testing of its Housing-Capehart Regulator Station pursuant to 49 CFR 192.739(a) on May 7, 2015, and agrees to inspect and test its regulator station at intervals not exceeding 15 months but at least once each calendar year to insure that it is in good mechanical condition, properly installed and protected, has adequate capacity and reliability, and all regulators are set to control and relieve at the correct pressures, consistent with the pressure limits.
2. On April 25, 2014, West Coast Gas administered the pre-employment drug testing of the one employee for whom it had not done so, and the test result was negative. West Coast Gas also included this employee in its pool of covered employees for required drug and alcohol testing.
3. West Coast Gas required its supervisors to complete training on specific physical, behavioral, speech and performance indicators for probable drug use and alcohol misuse to determine the need for testing and appropriate records maintenance on April 14 and 16, 2015. West Coast Gas also updated its Drug and Alcohol Plan by adding and improving the provisions required by 49 CFR 199.

SETTLEMENT

On June 25, 2015, the parties submitted a joint motion for adoption of a settlement agreement, noting the cooperation of West Coast Gas during and after the investigation, the corrective actions taken, and reducing the penalty imposed to a shareholder-funded penalty of \$15,000 in light of these actions and the impact the penalty would have on a

utility of this size. West Coast Gas reported \$2.27 million in gross revenue, and operating expenses (including natural gas supplies, operations and maintenance, labor, and CPUC-mandated programs) of nearly \$2.2 million, leaving a balance of approximately \$73,000 of annual income from which to pay any penalty imposed by the Commission.

Under Rule 12.2 of the Commission's Rules of Practice and Procedure, a settlement will not be approved unless it is reasonable in light of the whole record, consistent with the law and in the public interest. Given the cooperation of West Coast Gas with the Commission during and after the inspection, the corrective actions taken and the size of the utility, the settlement agreement and reduced penalty are reasonable in light of the whole record and consistent with the law. As the settlement will resolve the matter without the uncertainty and cost associated with additional legal proceedings, and as it increases the safe operation of this utility, the settlement is in the public interest.

SAFETY

The correction of violations and implementation of additional drug and alcohol testing procedures will ensure West Coast Gas Company meets its regulatory obligations and operates in a safe manner.

COMMENTS

No public review or comment is required for this resolution pursuant to Rule 14.6 because the matter is now uncontested and this Resolution grants the relief requested.

ASSIGNMENT OF PROCEEDING

Dan H. Burcham is the assigned Administrative Law Judge for this proceeding.

FINDINGS

1. West Coast Gas is a small distribution-only, low-pressure gas company serving approximately 1,400 customers.
2. West Coast Gas reported net operating income of \$72,913 for 2013, and operated at a loss of \$85,524 in 2014, resulting in zero net income for that year.
3. West Coast Gas committed the violations reported in the citation.
4. West Coast Gas cooperated with the Commission's investigation.

5. West Coast Gas took appropriate remedial measures which addressed each of the violations for which it was cited.
6. A reduction of the penalty from \$100,000 to \$15,000 payable by shareholders rather than ratepayers is reasonable and appropriate.
7. The settlement provisions are reasonable in light of the whole record, consistent with the law and in the public interest.
8. The settlement should be adopted.

THEREFORE, IT IS ORDERED that:

1. The appeal of West Coast Gas Company (U-910-G) from citation ALJ 274 15-01-005 is dismissed with prejudice.
2. The proposed settlement, which is attached to this Resolution as Attachment I, is adopted.
3. West Coast Gas Company (U910G) must pay a penalty of \$15,000 by check or money order payable to the California Public Utilities Commission, and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, California 94102, within 45 days of the effective date of this Resolution.
4. This proceeding is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

ATTACHMENT I

Proposed Settlement

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=154486008>